

JUSTICE COUNCIL 1998 End-of-Session Summaries

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I. COMMITTEE ON CIVIL JUSTICE & CLAIMS:

CS/CS/HB 0071 -- Journalist's Privilege

by Civil Justice & Claims and Rep. Rojas (Passed as CS/SB 0150 by Sen. Sullivan)

Codifies and expands the journalist's privilege. Shields journalists from compelled disclosure of sources and other information during judicial proceedings and investigative hearings.

- Establishes a qualified privilege for journalists pertaining to information obtained while gathering news.
- Restricts application of the privilege to traditional journalists and does not protect book authors and others.
- States that the privilege does not apply to physical evidence, eyewitness observations, or visual or audio recordings of crime.
- Provides an exception whereby the qualified privilege could be overcome by a clear and specific showing that: (1) the information is relevant to a pending issue, (2) the information is not available from other sources, and (3) a compelling interest supports disclosure.
- Establishes that publication of information does not result in waiver of the privilege.
- Provides guidelines for the authentication of evidence produced or provided by a professional journalist.

The effective date of this bill is upon becoming a law.

CS/HB 0935 -- Legal Process

by Civil Justice & Claims and Rep. Warner (CS/SB 1244 by Judiciary and Sen. Burt)

Amends six sections of the statutes relating to service of legal process and the rate of interest on judgments. Adds some clarifying language and technical modifications to these sections.

- Broadens the options for substitute service on sole proprietors.
- Delineates the authority of the chief judge of each judicial circuit related to the list of certified process servers.
- Allows certified process servers to serve processes originating outside the circuit.
- Fixes the rate of interest at the time a judgment is entered, which relieves the sheriffs of certain duties connected with processes, writs, judgments, and decrees that do not contain the applicable rate of interest.
- Allows the government to apply surpluses derived from executions toward satisfying junior writs.
- Under certain circumstances, requires the plaintiff to deliver a written demand for payment, before an officer could be held liable for failing to pay over money derived from an execution.

The effective date of this bill is October 1, 1998.

CS/HB 1597 -- Evidence Hearsay

by Civil Justice & Claims and Rep. Thrasher (CS/SB 1830 by Sen. Horne (1997 session); see also CS/SB 0874 by Rules & Calendar and Sen. McKay)

Overrides the Governor's veto of this bill following the 1997 session of the Legislature. Provides hearsay exceptions under circumstances where the availability of the declarant is immaterial.

- Broadens the scope of evidence admissible under the "former testimony"

exception to the hearsay rule.

- Allows the use of former testimony if the party against whom the testimony is being offered, or the party's predecessor in interest, or a person with a similar interest, had an opportunity and similar motive to develop the testimony.

The effective date of this bill is 60 days after adjournment of the 1998 session of the Legislature (July 1, 1998).

HB 1749 -- Law Day/Law Week
by Rep. Crow (SB 0928 by Sen. Campbell)

Establishes Law Day and Law Week as holidays designed to commemorate the role of law in society.

- Designates May 1 as Law Day.
- Designates the days preceding May 1, beginning with Sunday and ending on the Saturday following May 1, as Law Week. Specifies that in the event May 1 occurs on a Sunday, Law Week would begin May 1 and terminate on the following Saturday.

The effective date of this bill is upon becoming a law.

HB 3271 -- Grand Juries/Members
by Rep. Lippman (SB 0950 by Sen. Campbell)

Increases the maximum size of a grand jury from 18 to 21 persons. Makes a technical, grammatical change to the statute.

The effective date of this bill is July 1, 1998.

HB 3303 -- County Court Assessments
by Rep. Brown (Passed as SB 0200 by Sen. Klein; see also CS/CS/HB 1589 and CS/SB 2086)

Authorizes a county to assign the collection of past due fines and court costs to a private attorney or collection agency. The attorney must be a member in good standing of The Florida Bar. The collection agency must be licensed or registered in the state.

- Requires the board of county commissioners to determine whether an assignment would be cost-effective and requires adherence to established bid practices.
- Allows the county to add a fee to the past due balance to offset collection costs. This fee may not exceed 40 percent of the total fines and costs owed.

The effective date of this bill is July 1, 1998.

CS/HB 3419 -- Jury Districts/Boundaries
by Civil Justice & Claims and Rep. Minton (Passed as CS/SB 0552 by Judiciary and Sen. Klein)

Revises the method for creating jury districts in counties with populations that exceed 50,000.

- Permits the creation of jury districts by the chief judge acting with the approval of a majority of the county commissioners.
- Either the chief judge or a majority of the county commissioner may initiate the creation of jury districts.

The effective date of this bill is upon becoming a law.

HB 3871 -- Product Liability

by Civil Justice & Claims, Rep. Warner and others (Passed as CS/SB 0874 by Rules & Calendar and Sen. McKay)

Modifies the law relating to product liability actions. This is one of six bills produced as a result of extensive hearings conducted by the Committee on Civil Justice and Claims prior to the 1998 session. Portions of this bill, described below, were incorporated into the report issued by the Conference Committee on Litigation Reform.

- Imposes a 12-year statute of repose from the date a product is delivered to the first purchaser or lessee. The statute of repose does not apply if a manufacturer knew of a defect and concealed or attempted to conceal the defect. Also, the statute of repose does not apply if the injury occurred within the 12-year period, but did not manifest itself until after the expiration of the repose period.
- Provides a "government rules defense" for manufacturers and sellers of products. Creates a rebuttable presumption that a product is not defective or unreasonably dangerous if, at the time the product was sold or delivered, the aspect of the product that caused the harm was in compliance with government standards, relevant to the event causing the harm, designed to prevent the type of harm that occurred, and which the manufacturer was required to comply with in order to sell or distribute the product.

The effective date of this bill is October 1, 1998.

HB 3873 -- Punitive Damages

by Civil Justice & Claims, Rep. Warner and others (Passed as CS/SB 0874 by Rules & Calendar and Sen. McKay)

Strengthens the requirements which apply to claims for punitive damages. This is one of six bills produced as a result of hearings conducted by the Committee on Civil Justice and Claims between September 15, 1997, and February 17, 1998. Portions of this bill, described below, were incorporated into the report issued by the Conference Committee on Litigation Reform.

- Raises the burden of proof by requiring plaintiffs to prove they are entitled to punitive damages by clear and convincing evidence.
- Establishes that the level of misconduct sufficient to support a punitive damage claim is intentional misconduct or gross negligence. Defines gross negligence as "conduct so reckless or wanting in care that it constitutes a conscious disregard or indifference to the life, safety or rights of persons exposed to such conduct."
- Addresses the vicarious liability of employers or principals for the intentional torts of employees or agents. Requires at least gross negligence on the part of the employer or principal.
- Provides an exception for abuse of children, elderly, and developmentally disabled, and cases involving nursing homes and related facilities. Specifies that current statutory and common law provisions remain in effect with respect to such cases. Also, provides an exception for intoxicated defendants.
- Addresses repetitive claims for punitive damages. Limits the award of punitive damages if punitive damages have previously been awarded against a defendant for the same act or course of conduct. Allows imposition of a subsequent award for

punitive damages if the court determines by clear and convincing evidence that the previous award was insufficient to punish the defendant's behavior.

- Contains provisions related to the recovery of attorneys' fees under s. 400.023, F.S., which provides for the civil enforcement of rights under Part II, of Chapter 400 (Nursing Homes).

The effective date of this bill is October 1, 1998.

**HB 3875 -- Negligence/Commercial Real Property
by Civil Justice & Claims, Rep. Byrd and others** (Passed as CS/SB 0874 by Rules & Calendar and Sen. McKay)

This bill addresses the civil liability of holders of real property for harms which occur on the premises. This is one of six bills produced as a result of extensive hearings conducted by the Committee on Civil Justice and Claims prior to the 1998 session. Portions of this bill, described below, were incorporated into the report issued by the Conference Committee on Litigation Reform.

- Prescribes a "safe harbor" from civil liability for holders of an interest in commercial real property. Applies to criminal acts which take place on exterior or common areas of the premises and which are committed by third parties. Sets forth a list of nine security measures. If any six of these measures are implemented by the holder of an interest in commercial real property, other than a convenience business, the holder gains a presumption that adequate security was provided to members of the public and others. If the owner of a convenience business implements security measures which are already set forth in the statutes, the owner gains a presumption against liability.
- Limits the liability of a property holder for civil damages arising from harms that befall trespassers. Provides that a property holder is immune from liability to trespassers who are intoxicated, unless the property holder engages in gross negligence or intentional misconduct.
- Defines the terms "discovered trespasser" and "undiscovered trespasser," and describes the duties owed by property holders to persons falling within these categories. Narrows the constructive notice doctrine as it applies to undiscovered trespassers.

The effective date of this bill is October 1, 1998.

**HB 3877 -- Rental Car Liability
by Civil Justice & Claims, Rep. Flanagan and others** (Passed as CS/SB 0874 by Rules & Calendar and Sen. McKay)

Provides financial limitations on liability for the owners of motor vehicles under the "dangerous instrumentalities" doctrine. This is one of six bills produced as a result of extensive hearings conducted by the Committee on Civil Justice and Claims. Portions of this bill, described below, were incorporated into the report issued by the Conference Committee on Litigation Reform.

- Provides that a lessor of a motor vehicle under a rental agreement for a period of less than one year, and the owner of a motor vehicle who lends the vehicle to a permissive user other than a resident relative, would be financially responsible for strict vicarious liability only up to \$100,000 per person and \$300,000 per incident for bodily injury and \$50,000 for property damage.
- Requires that if the lessee or operator of the motor vehicle is uninsured or under-insured, the lessor or owner shall be liable for an additional \$500,000 in economic damages resulting from the operation of the motor vehicle. Provides that any amounts recovered from the lessee, the operator, or other insurance shall be

applied to reduce the additional \$500,000 of economic damages for which the lessor is liable.

- Specifies that the limitations on strict vicarious liability do not apply to motor vehicles used for commercial activity, unless the commercial activity consists of renting motor vehicles to the general public.
- Does not limit the liability of owners or lessors for injuries resulting from their own negligence.

The effective date of this bill is October 1, 1998.

HB 3879 -- Negligence Actions

by Civil Justice & Claims, Rep. Clemons and others (Passed as CS/SB 0874 by Rules & Calendar and Sen. McKay)

Restricts application of the doctrine of joint and several liability. This is one of six bills produced as a result of extensive hearings conducted by the Committee on Civil Justice and Claims. Portions of this bill, described below, were incorporated into the report issued by the Conference Committee on Litigation Reform.

- Eliminates the application of joint and several liability to that portion of economic damages which exceeds \$300,000. (Specifies that economic damages which exceed \$300,000 shall be determined on the basis of comparative fault)
- Establishes that joint and several liability only applies to defendants whose percentage of fault exceeds 20 percent. (In addition, current law requires that the fault of the defendant must equal or exceed that of the claimant)
- Eliminates application of joint and several to non-economic damages in cases under \$25,000.

The effective date of this bill is October 1, 1998.

HB 3881 -- Litigation Reform

by Civil Justice & Claims, Rep. Warner and others (Passed as CS/SB 0874 by Rules and Calendar and Sen. McKay)

Addresses several areas of litigation reform. This is one of six bills produced as a result of extensive hearings conducted by the Committee on Civil Justice and Claims. Portions of this bill, described below, were incorporated into the report issued by the Conference Committee on Litigation Reform.

- Establishes a series of jury reforms. Directs that jurors in certain civil cases be furnished with notebooks, be permitted to take notes, be allowed to submit written questions to witnesses with approval of the court, and be given final written instructions subject to the court's discretion.
- Provides for an expedited civil trial upon written agreement of the parties which would be conducted with shortened discovery times and a one-day trial.
- Creates guidelines related to voluntary civil trial resolutions. Permits the appointment of a trial resolution judge, to be selected and compensated by the parties.

- Establishes standards for the award of expert witness fees as taxable costs.
- Provides for sanctions against parties and attorneys who file unfounded claims or defenses. Creates exceptions if the attorney acted in good faith based on a client's representations as to material facts or if the claim or defense was presented as a good faith attempt to change existing law. Provides for sanctions against those who take actions with the primary purpose of causing unreasonably delay.
- Modifies the requirements of the itemized jury verdict form to eliminate the itemization of future damages and reduction to present value.
- Revises the offer of judgment statute to address multiple party offers of judgment and the effect of subsequent offers of judgment.

The effective date of this bill is October 1, 1998.

HB 4143 -- Emergency Telephone Services/ "911"
by Rep. Edwards and others (CS/SB 2164 by Judiciary and Sen. Latvala)

The bill adds commercial mobile radio service providers, also known as wireless/cellular telephone service providers, to the existing provisions on limitation of liability in connection with the provision of "911" services.

- Establishes that a commercial mobile radio service provider may not be liable for damages in connection with "911" service unless it acted with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.
- Provides that a commercial mobile radio service provider may not be liable for damages connection with the rendering of assistance to any investigative or law enforcement officer of the government unless it acted in a wanton and willful manner.

The effective date of this bill is upon becoming a law.

HB 4749 -- Medical Malpractice Insurance (NICA)
by Civil Justice & Claims, Rep. Byrd and others (Passed as CS/SB 1070 by Judiciary and Sen. Sullivan; see also CS/HB 823, CS/SB 1056, SB 1768)

Provides that the determination of whether a claim is covered under The Florida Birth-Related Neurological Injury Compensation Plan (NICA) must be determined exclusively by an administrative proceeding.

- Permits the hospital or the participating physician to give the obstetrical patient a NICA notice form and have the patient sign a form acknowledging receipt. The patient's signature creates a rebuttable presumption that the notice requirements have been met.
- Provides that the doctrines of res judicata and collateral estoppel may not bar future civil actions. Establishes that findings of fact by an administrative law judge are not admissible in subsequent civil actions. Provides that any person's sworn testimony and any of the exhibits introduced into evidence in the administrative proceeding, are admissible in a subsequent civil action for the purpose of impeaching a party to the administrative action.
- Limits NICA to investing association money in investments and securities described in s. 215.47, F.S.

The effective date of this bill is July 1, 1998, except as otherwise provided.

SB 0898 -- Postconviction/Capital Cases

by Sen. Burt (see CS/HB 3175 by Crime & Punishment and Rep. Crist)

Repeals Rule 3.852 of the Florida Rules of Criminal Procedure, thereby abolishing the public records discovery rules relating to postconviction proceedings established by the Florida Supreme Court in October 1996.

The effective date of this bill is October 1, 1998.

**CS/SB 1328 -- Capital Collateral Proceedings
by Criminal Justice and Sen. Burt**

Provides for the representation of certain death-sentenced defendants by attorneys in private practice instead of state-employed attorneys with the Capital Collateral Regional Counsel (CCRC).

- Would permit the CCRC to continue to represent current clients; however, attorneys in private practice would be appointed to represent death-sentenced defendants who were previously represented by private counsel and who are not represented at the time this bill becomes law.
- Requires the Justice Administration Commission (JAC) to maintain a registry of attorneys who are statutorily qualified to represent defendants in postconviction capital collateral proceedings.
- Provides that the Attorney General would notify the JAC when ninety-one (91) days have elapsed since the Florida Supreme Court issued a mandate on a direct appeal, or when the U.S. Supreme Court has denied a petition for certiorari, or when a person under a death sentence who was previously represented by private counsel is currently unrepresented in a postconviction capital collateral proceeding. Upon notification by the Attorney General, the JAC would immediately notify the trial court that imposed the death sentence and the judge would then appoint private counsel from the registry.
- Provides a schedule of fees for the payment of private counsel and investigators.

The effective date of this bill is July 1, 1998.

**CS/SB 1330 -- Capital Cases/Administration
by Criminal Justice and Sen. Burt** (see HB 4521 by Rep. Alexander and others)

Requires the Secretary of State to establish and maintain a records repository for the purpose of archiving capital postconviction records.

- Requires the state attorney, local law enforcement agencies, and the Department of Corrections to submit to the repository all relevant public records produced in a death penalty case. Requires other agencies to submit records relevant to the case.
- Requires postconviction counsel to review the records in the repository and file a written demand for additional agency records within 90 days of appointment. If the agency objects to the demand, the trial court must resolve the dispute within 30 days. The trial court may only order additional records production if it makes specific findings.
- Prohibits postconviction counsel from making any additional public records requests. However, if postconviction counsel can, through an affidavit, establish

that the agency still possesses relevant public records, the trial court may order them produced under certain circumstances.

- Provides that postconviction counsel must give written notification of each pleading filed and the name of the person filing the pleading to the Commission on the Administration of Justice in Capital Cases and to the trial court assigned to the case. Provides that a notice of hearing must be filed with each pleading with the court in a capital case.

The effective date of this bill is October 1, 1998.

CLAIM BILL SUMMARIES

HB 0653 -- Relief/Dena Sheryl Steels/Leon Co. By Rep. Lawson (SB 0038 by Sen. Thomas)

- This is an excess judgment/settlement for \$200,000 to compensate for the wrongful death of her son, resulting from negligence of the City of Tallahassee & Leon County School Board.
- The City of Tallahassee and the Leon County School Board are directed to draw funds each in the amount of \$100,000 not otherwise appropriated.

This act shall take effect upon becoming law.

HB 0939 -- Relief/Dale R. Cowie/ DMS by Rep. Melvin (Passed as SB 0020 by Sen. Clary)

- This is an equitable claim for \$15,401.77, against the Department of Management Services to compensate Claimant for expenses incurred in performing work as a subcontractor on the Jackson Correctional Institution Project.
- The funds are to be drawn from General Revenue.

This act shall take effect July 1 of the year in which enacted.

HB 0941 -- Relief/Ray Construction/DOR by Rep. Melvin (Passed as SB 0018 by Sen. Clary)

- This is an equitable claim for \$18,230.46, against the State of Florida, Department of Revenue to compensate claimant for excess documentary stamp assessments.
- The funds are to be drawn from General Revenue.

This act shall take effect July 1, of the year in which enacted.

HB 1711 -- Relief/Michelle Ponce/Dade Co. by Rep. Rojas (Passes as SB 0006 by Sen. Meadows)

- This is an excess judgment claim/consent judgment for \$410,000, against Metropolitan Dade County to compensate her for injuries and damages sustained as a result of negligence.
- The Metropolitan Dade County is directed and authorized to appropriate from funds of the county not otherwise appropriated.

This act shall take effect upon becoming law.

HB 1713 -- Relief/Frank H. Holliday/Manatee County

by Rep. Sembler (Passed as SB 0044 by Sen. Turner)

- This is an equitable claim/settlement for \$235,000 between Manatee County and the claimant for injuries and damages sustained as a result of negligence of Manatee County Sheriff's Department.
- The Sheriff's Department is authorized and directed to appropriate from funds of the department not otherwise appropriated.

This act shall take effect upon becoming law.

HB 1717 -- Relief/Lazaro Gutierrez/Dade County

By Rep. Lippman (Passed as SB 0016 by Sen. Turner)

- This is a Consent Judgment/Settlement for \$2,973,246 between Dade County School Board and the claimant for injuries and damages sustained as a result of negligence.
- The Dade County School Board is authorized and directed to appropriate from funds of the school board not otherwise appropriated.

This act shall take effect upon becoming law.

HB 1767 -- Relief/Heather Roszell/State of Florida, Board of Regents, & Hillsborough County Hospital

By Rep. Murman (Passed as SB 0008 by Sen. Grant)

- This is an equitable claim/settlement for \$3,550,000 between State of Florida, Board of Regents, Hillsborough County Hospital Authority, d.b.a. Tampa General Hospital, and the claimant for injuries and damages sustained as a result of negligence.
- The Board of Regents is authorized to direct the expenditure from the university of South Florida Self-Insurance Program Accounts.
- Hillsborough County Hospital Authority, d.b.a. Tampa General Hospital, is authorized and directed to appropriate funds of the district not otherwise appropriated.

This act shall take effect July 1, 1998.

HB 1769 -- Relief/Tirini S. Riley/Broward Co.

By Rep. Bradley (Passed as SB 0014 by Sen. Forman)

- This is an excess judgment/consent claim for \$1,000,000, against Broward Co. for injuries sustained out of an accident that occurred while she was a patient of the Hospital.
- South Broward Hospital District, d/b/a Memorial Hospital, is authorized and directed to appropriate from funds of the hospital district not otherwise appropriated.

This act shall take effect July 1, 1998.

HB 1771 -- Relief/Juan A. Garcia, Jr./City of Miami Beach

By Rep. Villalobos (SB 0004 by Sen. Forman)

- This is an excess judgment claim/consent judgment/settlement, against the City of Miami Beach for \$1,050,000, for injuries and damages sustained as result of negligence of the City of Miami Beach.
- The City of Miami Beach is authorized and directed to appropriate from funds of the city not otherwise appropriated.

This act shall take effect upon becoming law.

HB 1881 -- Relief/David Kelley and the Estate of Alto Kelley/DOT
By Rep. Ritter (Passed as CS/SB 0002 by Transportation and Sen. Childers)

- This is an equitable claim/settlement for \$1,400,000, appropriated from the State Transportation Trust Fund to the Florida Department of Transportation.

This act shall take effect July 1, 1998.

HB 2135 -- Relief/Franklin Messick/Collier Co.
by Rep. Saunders (Passed as SB 0030 by Sen. Saunders)

- This is equitable claim for \$101,639.55, against Collier County, for wrongful death of his son, Arthur D. Messick, which occurred as a result of the negligence of Collier County.
- Collier County is directed to appropriate from funds of the County not otherwise appropriated.

This act shall take effect upon becoming law.

HB 3025 -- Relief/Triesa Wells/Pembroke Pines
by Rep. Ritter (Passed as SB 0022 by Sen. Campbell)

- This is an Equitable Claim/Settlement for \$499,000, against the City of Pembroke Pines, to compensate the claimant for injuries which she suffered when her vehicle was struck by a City of Pembroke Pines Police Vehicle.
- The City is directed to appropriate from funds of the city not otherwise appropriated.

This act shall take effect July 1, 1998.

HB 3027 -- Relief/Kathryn Malloy/Palm Beach
By Rep. Silver (Passed as SB 0032 by Sen. Silver)

- This is a claim for \$86,050 for Kathryn Malloy (Sperdute) for injuries suffered in an accident that was caused by negligence of an employee of Palm Beach County School Board.
- Palm Beach County School Board is authorized and directed to appropriate out of funds of the school board not otherwise appropriated.

This act shall take effect July 1, 1998.

CS/HB 3029 -- Relief/Carrie A. Wilson/Duval County
By Civil Justice & Claims and Rep. Thrasher (Passed as SB 0036 by Sen. Horne)

- This is an excess judgment claim for \$1,150,000, for permanent injuries sustained when she injured her left leg and foot while she was a student at Dupont Middle School in Jacksonville.

- Duval County School Board is authorized and directed to appropriate the amount of \$1,150,000 to compensate for injuries sustained due to negligence of the School Board. The balance of \$1,150,000 shall be paid in four equal annual installments commencing 30 days after enactment.

This act shall take effect upon becoming law.

CS/HB 3031-- Relief/Adela Azcuy/Metro Dade County

By Civil Justice & Claims and Rep. Barreiro (Passed as SB 0026 by Sen. Turner)

- This is an excess judgment claim for \$144,000 for injuries suffered as result of negligence of Dade County.
- The appropriate financial authority for Metropolitan Dade County is directed to appropriate a warrant in favor of Adela Azcuy.

This act shall take effect July 1, 1998.

CS/HB 3035 -- Relief/Freddie Pitts & Wilbert Lee/State of Florida

By Civil Justice & Claims and Rep. Meek (SB 0068 by Judiciary and Sen. Holzendorf)

- The Division of Administrative Hearings is directed to appoint an administrative law judge to conduct a hearing and determine whether a basis for equitable relief exists for the purpose of compensating claimants.
- If the administrative law judge determines that the State of Florida, or officials, thereof, committed a wrongful act, the Comptroller is authorized to draw a warrant not to exceed \$500,000 each, and reasonable attorney's fee not to exceed 25% of the compensation awarded.

This act shall take effect upon becoming law.

CS/HB 3037 -- Relief of Bruce Wiggins/Metropolitan Dade County

By Civil Justice & Claims and Rep. Cosgrove (Passed as SB 0034 by Sen. Casas)

- This is a verdict-based excess judgment claim to compensate the estate of Helen Wiggins for her death as result of the negligence of Metropolitan Dade County.
- The Board of County Commissioners of Metropolitan Dade County is authorized and directed to appropriate from funds of the county not otherwise appropriated the sum of \$1,522,665.
- The portion of the settlement for the children shall be placed in structured annuities.
- Payment due any lienholders as a result of medical expenses shall be paid directly from Dade County to the lienholders, after being reduced by a sum that is the lienholder's proportionate share of attorneys' fees and costs.
- Prior to the disbursement of funds to the claimant, the governmental entity responsible for payment shall make payment to the Florida Agency for Health Care Administration for satisfaction of any and all Medicaid liens. The lien amount shall be calculated up to the date that this bill becomes law.

This act shall take effect upon becoming law.

CS/HB 3041 -- Relief of Frank Roster/Department of Transportation (DOT)

By Civil Justice & Claims and Rep Miller (Passed as CS/SB 0028 by Transportation and Sen. Forman)

- This is a verdict - based Excess/Judgment claim for \$4,600,000, and transfer of existing spending authority from unappropriated trust fund balances in the Department of Transportation.
- The governmental entity responsible for payment of the warrant shall satisfy any and all Medicaid liens for past benefits provided prior to the disbursement of funds to the claimant.

This act shall take effect July 1, 1998.

HB 3045 -- Relief of Penny Tilley/Florida Retirement System
By Rep. Boyd (Passed as SB 0066 by Sen. Williams)

- This is an equitable claim for \$3,973.68, and thereafter \$331.14 a month, and an annual cost of living allowance.

This act shall take effect July 1, of the year in which enacted, except that this act shall not take effect if an amendment adding subparagraph (f)1. to subsection (7) of section 121.091, F.S., becomes law.

CS/HB 3047 -- Relief/Michelle Jones/West Volusia Hospital Authority
By Civil Justice & Claims and Rep. Lynn (Passed as SB 0054 by Sen. Dyer)

- This is a consent verdict-based, excess judgment claim in the amount of \$1,972,540, West Volusia Hospital Authority is directed to appropriate from funds not otherwise appropriated.

This act shall take effect upon becoming law.

CS/HB 3051 -- Relief of Jemal Kurein/City of Tampa
By Civil Justice & Claims and Rep. Miller (Passed as SB 0052 by Sen. Grant)

- The City of Tampa is authorized to appropriate from funds not otherwise appropriated in the sum of \$290,930.30 payable to Semira Kurein.
- Payment to the Florida Agency for Health Care Administration shall be reduced by the agency's proportionate share of legal costs and attorney's fees. The amount due to the agency shall be calculated based on Medical payments paid up to the date that this bill becomes law.

This act shall take effect upon becoming law.

HB 3055 -- Relief of Bruce and Janie Silverman/North Broward Hospital District
By Rep. Tobin (Passed as SB 0040 by Sen. Campbell)

- This is a settlement agreement for \$1 million to compensate for the death of Alexandra Silverman while in the care of the Coral Springs Hospital.

This act shall take effect upon becoming law.

CS/HB 3057 -- Relief of Jeanette Alonso/Dade County
By Civil Justice & Claims and Rep Ritter (Passed as SB 0060 by Sen. Gutman)

- This is an excess judgment/settlement for \$3,800,000, payable to the court-appointed guardian.

This act shall take effect upon becoming law.

HB 3079 -- Relief of Julie McGinnes/Palm Beach County
By Rep. Andrews (Passed as SB 0056 by Sen. Klein)

- This is a pre-trial settlement. The Board of County Commissioners of Palm Beach County is directed to appropriate from funds not otherwise appropriated a warrant in the sum of \$1,025,000 payable to claimant.

This act shall take effect upon becoming law.

HB 3081 -- Relief of Matthew White/Alachua County
By Rep. Casey (Passed as SB 0070 by Sen. Klein)

- This is an excess judgment claim; the Alachua County Sheriff's Department is directed to appropriate from funds not otherwise appropriated in the sum of \$275,000 payable to Matthew White.

This act shall take effect upon becoming law.

CS/HB 3085 -- Relief of Kimberly L. Gonzalez/Palm Beach County Sheriff's Dept.
By Civil Justice & Claims and Rep. Healey (Passed as CS/SB 0058 by Ways & Means and Sen. Meadows)

- This is an excess judgment/settlement in the amount of \$71,790.67. The Palm Beach County Sheriff's Department is directed to appropriate from funds not otherwise appropriated to pay claimant.
- Requires the claimant and claimant's attorney to repay the Medicaid lien, which will be based on medical payments paid up to the date that this act becomes law.

This act shall take effect upon becoming law.

II. COMMITTEE ON CORRECTIONS:

CS/HB 3539 -- Notification of Escaped Prisoner
by Corrections, Rep. Ritter and others (Passed as CS/SB 0930 by Criminal Justice and Sen. Campbell)

Requires correctional institutions to immediately notify the appropriate sentencing judge and state attorney upon the escape of an inmate from a state, local, or juvenile correctional facility, including public and private facilities.

- Clarifies applicability of escape notification requirements to private correctional facilities.
- Requires institution to also notify the appropriate state attorney and sentencing judge when the escaped offender is subsequently captured and returned.

The bill is effective upon becoming law.

CS/HB 4455 -- Mobile Surgical Facilities
by Corrections , Rep. Brooks and others (CS/CS/SB 1728 by Health Care, Criminal Justice and Sen. Bronson)

Creates licensing requirements for mobile surgical facilities.

- Authorizes the Agency for Health Care Administration (AHCA) to license and regulate mobile surgical facilities under Chapter 395. The bill's licensing requirements do not appear to interfere with the contract that the existing mobile surgical facility has with the Department of Corrections.
- Defines mobile surgical facilities to only include such facilities under contract with the Department of Corrections. Also includes mobile surgical facilities in the definition of "ambulatory surgical center."
- Specifically exempts mobile surgical facilities under contract with the Department of Corrections from the Chapter 408 requirements to procure a certificate of need.
- Authorizes AHCA to inspect mobile surgical facilities at initial licensure and again each time a new location is established, unless the facility is moved to a temporary location where medical treatment will not be provided.
- Authorizes AHCA to establish separate minimum standards for mobile surgical facilities.
- Requires licensed mobile surgical facilities to pay an annual assessment on health care entities as required in §395.7015(b)(2).

The bill is effective upon becoming law.

III. COMMITTEE ON CRIME & PUNISHMENT:

HB 0065 -- Crime Prevention Assistance
by Reps. Constantine and Culp (SB 0982 by Sen. Kurth)

The bill repeals Chapter 426, F.S.

Chapter 426, F.S., was enacted in 1984 to allow housing authorities to carry out crime prevention and security programs to reduce the victimization of handicapped and elderly residents. The program was to be funded by fines imposed in certain criminal cases, however, the fines were rarely imposed or collected. The trust fund associated with this program was repealed in 1993.

The effective date of this bill is upon becoming law.

CS/CS/HB 0327 -- Criminal Mischief/Graffiti
by Governmental Operations, Crime & Punishment, Rep. Rojas and others (Passed as SB 0444)

- Authorizes local government to impose mandatory sentences for a violation of a graffiti related ordinance.
- Provides that a conviction for a second misdemeanor criminal mischief (including graffiti) is to be reclassified as a third degree felony.
- Provides that local ordinances penalizing graffiti are not preempted by state law.
- Provides an exception for graffiti related offense to the general requirement that a law enforcement officer may not arrest a person for a misdemeanor offense that did not occur in the presence of the officer.

The effective date of this bill is October 1, 1998.

**CS/CS/HB 0679 -- Weapons and Firearms/Domestic Violence
by Law Enforcement & Public Safety, Crime & Punishment, Rep. Lynn and others (SB
1582 by Sen. Kurth)**

- Creates a first degree misdemeanor offense for the possession of a firearm or ammunition by a person who has been issued a final injunction for domestic violence. This provision applies only as long as the injunction is in effect.
- Provides an exception for certified law enforcement officers who possess a firearm for official duties.
- Provides that a license to carry a concealed weapon may not be issued if a person has an injunction that prohibits repeat violence or domestic violence. This prohibition only lasts as long as the injunction is in effect.
- Provides that a license to carry a concealed weapon shall be revoked and shall not be issued, if a person has been sentenced for a violent misdemeanor and the sentence has not expired within the last three years.

The effective date of this bill is July 1 of the year in which enacted.

**CS/HB 0767 -- Bad Check Charges
by Crime & Punishment and Rep. Hill (SB 0212 by Sen. Meadows)**

- Amends statute governing civil action to collect worthless checks by including checks upon which the maker has stopped payment with the intent to defraud.
- Amends statute governing service fee to be collected by governing bodies to correspond with the fees announced in s. 832.08(5).
- Amends statute governing prima facie evidence of identity by deleting the requirement that the check maker's race be established in order to prove identity.

The effective date of this bill is October 1, of the year in which enacted.

**HB 1317 -- Leased Personal Property/Defraud
by Rep. Argenziano and others (CS/SB 1028 by Commerce & Economic Development and
Sen. Gutman)**

- Creates a first degree misdemeanor penalty for knowingly possessing equipment used for the unauthorized reception of any cable service.
- Creates a first degree misdemeanor penalty for advertising the sale of equipment used for the unauthorized reception of any cable service.
- Provides that there is prima facie evidence of fraudulent intent, if a person fails to redeliver leased property within 5 days after receipt of the certified demand for the return of the leased property. Notice of this provision must be initialed by the person leasing or renting the property.
- Provides that failure to pay money due on leased or rental property after the demand for return is made, is prima facie evidence of intent to defraud. Notice of this provision must be initialed by the person leasing or renting the property.

- Provides that a demand for the return of overdue property may be made by certified mail, return receipt requested, addressed to the lessee's address shown in the rental contract.

The effective date of this bill is October 1 of the year in which enacted.

CS/HB 1381 -- Court Costs & Fines Collection; creates "Comprehensive Court Enforcement Program Act" by Crime & Punishment, Rep. Heyman and others (CS/SB 0462 by Criminal Justice and Sen. Crist)

Creates the "Comprehensive Court Enforcement Program" which authorizes courts to pursue fines, court costs, fees and restitution which were imposed pursuant to a criminal conviction in a civil proceeding.

- Authorizes judges to punish refusal to pay with contempt of court.
- Authorizes an additional administrative fee to cover the costs of the civil hearing.
- Authorizes special masters to make recommendations to the court.
- Authorizes county commissions to refer financial obligations to a collection agent.

The effective date of this bill is upon becoming a law.

CS/HB 1727 -- Assault & Battery/Code Inspectors by Crime & Punishment, Rep. Livingston and others (Chapter Law #98-7) (SB 0106 by Sen. Gutman)

Increases the classification of the penalty for violent crimes against code inspectors so that the severity of the punishment for an offense such as battery against a code inspector is treated the same as a battery against a law enforcement officer.

The effective date of the bill is October 1 of the year in which it is enacted.

CS/HB 3033 -- Execution/Lethal Injection by Crime & Punishment, Rep. Stafford and others (Chapter Law #98-3) (SB 0196 by Sen. Klein)

Amends statute governing the method of execution by making lethal injection the method of execution, if electrocution is ever ruled unconstitutional.

- Provides that a change in the method of execution shall not constitute a violation of the Ex Post Facto clause of the U.S. Constitution, nor the Florida Constitution.
- Provides that a change in the method of execution shall not constitute a violation of Florida's Constitutional provision which ensures punishment for a crime, regardless of repeal of the statute, in Article X, Section 9 of the Florida Constitution.
- Provides that no sentence of death shall be reduced as the result of a change in the method of execution.
- Exempts the prescribing, preparing, dispensing and administration of a lethal substance from the definition of the practice of medicine.

The effective date of this bill is upon becoming law.

CS/HB 3053 -- Death by Lethal Injection/Records by Crime & Punishment, Rep. Stafford and others (Chapter Law #98-04) (SB 0198 by Sen. Klein)

- Amends statute governing confidential records belonging to the Department of Corrections by including the identity of the person administering a lethal injection in connection with the execution of an inmate.
- Amends statute governing public's right to inspect public records by exempting information which may divulge the identity of the person administering a lethal injection in connection with the execution of an inmate. Provides the law is subject to the Open Government Sunset Review Act of 1995 which requires the legislature to review the law and make new findings in order to continue the exemption by October 2, 2003.
- Makes legislative finding which is necessary to exempt certain records from public inspection.

The effective date of this bill is "on the same date that Committee Substitute for House Bill 3033 or similar legislation providing for execution of the death sentence by lethal injection takes effect"

CS/HB 3107 -- Sexual Predator Registration

by Crime & Punishment, Rep. Fasano and others (Also passed as SB 1992 by Criminal Justice, Sen. Burt and others)

- Amends the sexual predator statute by increasing from 10 years to 20 years, the time a sexual predator must live without any new violation of the law before applying to have the designation removed. The change applies only to those sexual predators so designated after July 1, 1998.

The effective date of the bill is July 1 of the year in which enacted.

CS/HB 3147 -- Blind Services

by Community Affairs and Rep. Heyman (SB 0136 by Sen. Forman)

- Amends statute governing rights of disabled persons to allow trainers of guide-dogs to enter public facilities with the guide-dog for training purposes.
- Amends statute governing the Division of Blind Services by redefining the function of the Advisory Council for the Blind to assist the Division of Blind Services in the development of programs and services.
- Amends statute governing the Division of Blind Services by redefining the structure, membership, method of appointment of members and specific duties of the Advisory Council for the Blind.

The effective date of the bill is July 1 of the year in which enacted.

CS/HB 3165 -- Controlled Substances/Public Housing

by Crime & Punishment, Rep. Lynn and others (Passed as CS/SB 0358 by Criminal Justice and Sen. Burt)

- Provides for enhanced penalties for any person who sells, manufactures, delivers, or possesses with intent to sell a controlled substance within 200 feet of a public housing facility.
- Current law provides for similar enhanced penalties, but was ruled unconstitutional because the term "public housing" was considered too vague. The bill addresses the constitutional defect by more clearly defining the term "public housing."

The effective date of the bill is October 1, 1998.

HB 3275 -- Drivers License Suspension/Bad Checks

by Rep. Arnall and others (CS/SB 1218 by Transportation and Sen. Crist)

- Amends statute governing worthless checks by requiring the suspension of the driver's license for any person being prosecuted for a worthless check, who fails to appear in court and for whom an arrest warrant or capias has been issued.
- Amends statute governing worthless checks by providing an alternative to bad check diversion program which allows placement of a worthless check debt with a debt collector prior to presenting the complaint for prosecution by the state attorney.
- Amends statute governing drivers' licenses to permit the Department of Highway Safety and Motor Vehicles to sell copies of photographs and other images when they are being purchased for the purpose of preventing fraud.
- Amends statute governing traffic infractions by requiring a warning instead of a fine for speeding if less than 5 m.p.h. over the speed limit; by requiring a fine for speeding in a school zone, even if less than 5 m.p.h. over the speed limit; by requiring the presence of construction personnel for imposition of provision which requires doubling of fines for speeding in construction zone.
- Amends statute governing drivers' licenses by requiring a second offense for a misdemeanor conviction of expiration of registration, over 6 months. A first conviction is reduced to a civil infraction.
- Amends statute governing drivers' licenses by requiring permanent revocation for any person convicted of murder resulting from the operation of a motor vehicle; D.U.I. manslaughter, if a second or subsequent D.U.I. offense; by requiring that periods of license suspension will not run during periods of incarceration; by creating a 3rd-degree felony for any person who drives with a permanently revoked license.

The effective date of this bill is July 1 of the year in which enacted.

CS/HB 3367 -- Judicial Nominating Commissions

by Crime & Punishment, Rep. Bronson and others (Passed as CS/SB 0418 by Judiciary and Sen. Bronson)

- Amends statute governing Judicial Nominating Commissions by requiring membership to include at least one resident of each county in the judicial circuit.
- Provides the law will only apply to members chosen after the effective date.

The effective date of this bill is July 1 of the year in which enacted.

HJR 3505 -- Death Penalty/Execution Method

by Reps. Crist, Feeney and others (CS/SJR 0964 by Criminal Justice & Sen. Lee)

The joint resolution proposes the following changes to Florida's Constitution:

- Provides that the prohibition against cruel and unusual punishment must be interpreted in conformity the United States Supreme Court's interpretations of the same provision in the United States Constitution.
- Provides that the death penalty is an authorized punishment for capital crimes designated by the legislature.

- Provides that any method of execution shall be allowed unless prohibited by the United States Constitution.
- Provides that the method of execution may be changed retroactively and that a sentence of death shall not be reduced because a method of execution is declared invalid.

The amendment is effective retroactively upon ratification by the electorate.

CS/HB 3709 -- Voyeurism

by Crime & Punishment, Reps. Dockery, Bloom, Brown, Casey and others (CS/SB 0772 by Criminal Justice and Sen. Gutman)

- Creates the offense of “voyeurism” which prohibits the secret observation, photographing, videotaping, etc. of a person with lewd or indecent intent, if the victim is in a location in which he or she would have a reasonable expectation of privacy.
- Provides the penalty for a first or second offense shall be a 1st-degree misdemeanor. A third or subsequent offense shall be a 3rd-degree felony.
- Amends the criminal mischief statute by permitting the aggregate sum of the damages inflicted upon the property of multiple owners to be considered when determining whether the amount of damages qualifies the offense as a misdemeanor or a felony.

The effective date of this bill is July 1 of the year in which enacted.

HB 4233 -- Offense of Murder/Redefined

by Rep. Stafford (CS/SB 0524 by Criminal Justice and Sen. Campbell)

- Amends the felony-murder statute by including murder as one of the enumerated, underlying offenses which will form the basis for a 1st or 2nd-degree murder conviction, regardless of the perpetrator's intent.
- Amends the vehicular homicide statute by including a viable fetus as a potential victim of the crime, and by providing a civil cause of action for the death of a viable fetus.
- Amends the statute governing Public Defenders by directing the Commission on the Administration of Justice in Capital Cases to conduct a study to evaluate whether the elimination of post-conviction appeals will reduce delays in carrying out a death sentence in capital cases.
- Creates a provision directing the Correctional Privatization Commission to use \$100,000 for the purpose of developing two invitations to bid on 1) an adult prison, and 2) a youthful offender facility.

The effective date of this bill is October 1 of the year in which enacted.

HB 4667 -- Criminal Punishment

by Crime & Punishment and Rep. Ball (Passed as CS/SB 1522 by Criminal Justice)

- Provides that enhanced penalties authorized by statute do not cause offenses to become unranked.

- Inserts all offenses that were ranked in the guidelines during the 1997 session into the ranking chart for the new Punishment Code.
- Inserts into the ranking chart for the Code the offenses of official misconduct and solicitation of a child through the Internet, which were previously unranked offenses.
- Clarifies that the Code does not apply to capital offenses.
- Requires that a court must provide written reasons for a sentence below the lowest permissible sentence within 7 days after the sentencing.
- Clarifies that judges will be able to impose consecutive sentences up to the statutory maximum for each count before the court for sentencing.
- Creates the offense of attempted felony murder for intentional acts that could but do not cause injury to another committed during the course of a serious felony.
- Authorizes the Department of Corrections to evaluate sentencing trends and rates of incarceration.
- Removes inconsistent language and makes other technical changes.

The effective date of the bill is October 1, 1998.

IV. COMMITTEE ON FAMILY LAW & CHILDREN:

CS/HB 0585 -- Adoption of Foster Children by Rep. Murman (SB 0264 by Sen. Rossin)

Allows for the court to order post-adoption contact between separated siblings after a termination of parental rights if such contact is in the best interests of the children. This contact may include, but is not limited to, visits, letters and cards, or telephone calls. The order for such contact shall be made a part of the final adoption order.

The effective date of this bill is upon becoming law.

HB 1019 -- Marriage Preparation and Preservation and Protection of Children by Rep. Bloom and Rep. Wise (CS/CS/SB 1576 by Sen. Rossin)

Creates the "Marriage Preparation and Preservation Act of 1998".

- Provides for marriage and relationship skill-based education to be included in the life management skills class required for high school graduation.
- Provides for a reduction of \$32.50 in the marriage license fee for couples who complete a marriage preparation course.
- Requires a three-day waiting period for a license for those couples not completing a course. The waiting period may be waived under certain circumstances.
- Delineates course curriculum and qualifications of course providers for marriage preparation course.
- Provides for a research component to be developed and administered by the Center for Marriage and Family at Florida State University.
- Requires the creation and distribution of a handbook pertaining to the rights and responsibilities of marital partners under Florida law.
- Provides for the Parent Education and Family Stabilization Course for separating or divorcing parents and specifies content of the course and qualifications for course providers.
- Provides for an increase of \$32.50 in the filing fee for dissolution of marriage.

The effective date of the sections of the bill relating to marriage preparation and preservation is January 1, 1999.

Provides for the protection of children.

- Strengthens the federal mandate to ensure that the safety and protection of children are always the paramount concern.
- Shortens the time frames for achieving resolution for abused and neglected children.
- Builds in better and more complete child and family assessments up front in the dependency process.

- Provides funding for lawyers for indigent parents in dependency court proceedings.
- Consolidates two separate child protection statutes (chapters 39 and 415) to eliminate contradictions and streamline court procedures.
- Provides funding for increased caregiver subsidies for child abuse and neglect victims placed in the care of relatives.
- Increases fines, other civil and criminal penalties for persons who knowingly and intentionally make false reports of child abuse.
- Implements child protection requirements of the federal Adoption and Safe Families Act of 1997. Florida is the first state in the nation to meet this requirement.

The effective date of the sections of the bill relating to child protection is October 1, 1998.

HB 3217 -- Privatization of Foster Care and Related Services

by Rep. Murman and Rep. Feeney (CS/CS/SB 0352 by Ways & Means, Children, Families & Seniors and Sen. Brown-Waite)

Requires the privatization of foster care and related services statewide over a three year period beginning on January 1, 2000.

- Requires the Department of Children and Family Services to submit an operational plan to accomplish privatization. The plan is to be submitted by July 1, 1999.
- Requires the state attorney or the Office of the Attorney General to provide child welfare legal services, beginning in fiscal year 1999-2000, in Sarasota, Pinellas, Pasco, and Manatee Counties.
- Requires the Department of Children and Family Services to develop a statewide quality assurance program.
- Requires the Department to privatize all foster care and related services in District 5 beginning January 1, 1999.
- Directs the Department to transfer all responsibility for child protective investigations for Pinellas, Pasco, and Manatee counties to the sheriffs of those counties by the end of fiscal year 1999-2000. During FY 1998-1999, the department will contract with the sheriffs for these services.

The effective date of this bill is July 1 of the year in which enacted.

CS/HB 3227 -- Substance Abuse Services

by Family Law & Children, Rep. Wise and others (SB 0392 by Sen. Holzendorf)

Redefines the term "qualified professional" for purposes of providing substance abuse assessment or treatment services. Requires persons to meet Florida's certification requirements within a specified period after employment in Florida. Provides a grandfather clause for persons with certain qualifications and experience. Exempts persons certified before January 1, 1995.

The effective date of this bill is January 1, 1999.

CS/HB 3327 - Sexually Violent Predator Treatment

by Family Law & Children, Rep. Villalobos and others (CS/CS/SB 0646 by Children, Families & Seniors, Criminal Justice, Sen. Gutman and others)

Establishes legal procedures by which sexually violent predators may be civilly committed to the Department of Children and Family Services for control, care, and treatment until such time as the person's mental condition has so changed that the person is safe to be at large. Appropriates

\$4,900,000 and 50 full time equivalent positions to the Department of Children and Family Services, and \$1,500,000 to the Department of Corrections to carry out the provisions of this act.

The effective date of this bill is January 1, 1999.

CS/CS/HB 3377 -- Child Abuse Prevention Services
by Health & Human Service Appropriations, Family Law & Children, Rep. Frankel, Rep. Lynn and others (Passed as CS/CS/SB 1660 by Governmental Reform & Oversight, Children, Families & Seniors, Sen. Kurth and others)

Requires the Department of Children and Family Services to contract with a private nonprofit corporation to implement the Healthy Families Florida program.

- The program shall work in partnership with existing community-based home visitation and family support resources to provide assistance to families in an effort to prevent child abuse.
- The program is voluntary for participants, and requires the informed consent of participants at initial contact.
- The Kempe Family Stress Checklist shall not be used.
- Appropriates \$10 million from tobacco settlement receipts to the Department of Children and Family Services to implement this act.

The effective date of this bill is July 1 of the year in which enacted.

CS/HB 3883 -- Protection of Children
by Family Law & Children and Rep. Lynn (CS/SB 2170 by Sen. Dudley)

Passed as HB 1019.

HB 3887 -- Public Records Relating to Reports of Child Abuse and Neglect
by Rep. Lynn (CS/SB 2170 by Sen. Dudley)

Passed as HB 1019.

Provides exemption from public records requirements for department reports and records of cases of child abandonment.

CS/HB 4229 -- False Reports of Abuse and Neglect
by Rep. Dockery (Passed as CS/CS/SB 1024 by Sen. Hargrett, sections relating to child abuse and neglect passed as HB 1019 by Rep. Bloom, and sections relating to elder abuse passed as HB 4167 by Elder Affairs and Long Term Care and Rep. Brooks)

Provides for increased penalties for false reporting of child abuse, abandonment, or neglect or the abuse, neglect, or exploitation of an elderly or disabled adult.

- Provides procedures for investigation of suspected false reports by local law enforcement.
- Increases the criminal penalty for false reporting from a second degree misdemeanor to a third degree felony.
- Requires for reports to be made to the legislature by the Department of Children

and Family Services and the state attorneys that provide the number of cases referred and the number of complaints resulting in a filing of an information or an indictment.

- Increases the maximum amount of an administrative fine from \$1,000 to \$10,000.

The effective date of the bill is July 1, 1998.

HB 4771 -- Child Support Enforcement

by Family Law & Children, Rep. Lynn and Rep. Effman (CS/SB 2244 by Sen. Dudley: Passed in CS/CS/HB 271 by Rep. Arnall)

Provides for a number of changes to the statutes relating to the Child Support Enforcement Program.

- Reduces the fee DOR pays for placing a lien on a motor vehicle from \$28.25 for first liens and \$29.25 for subsequent liens to a flat fee of \$7.00.
- Allows the director of the Child Support Program to delegate authority to place a lien on a motor vehicle or vessel to appropriate staff.
- Allows DOR to identify persons owing child support who have abandoned property with the Department of Banking and Finance and to request transfer of that property to DOR for child support obligations once the claim has been approved.
- Eliminates the requirement for Child Support Enforcement to file an Answer to the Complaint to Foreclose but allows the department to retain the right to participate in disbursement of funds.
- Requires current support to be given priority in cases where more than one income deduction order exists and collection is insufficient to satisfy all obligations.
- Eliminates an unnecessary requirement and clarifies instructions to employers regarding allocation of income deduction amounts when there is more than one obligation for an employee.
- Establishes the State Disbursement Unit as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).
- Specifies that child support will be distributed in accordance with federal requirements.
- Gives DOR general rulemaking authority for the Child Support Enforcement Program.
- Corrects glitches in the child support enforcement legislation and the WAGES legislation passed by the Florida Legislature in 1997.
- Changes state law to include federal technical amendments to PRWORA.

The effective date of the sections of this bill relating to child support enforcement is July 1, 1998.

V. COMMITTEE ON JUVENILE JUSTICE:

HB 0475 -- Juvenile Sexual Offenders

by Juvenile Justice and Rep. Brown (Passed as CS/CS/SB 1796 by Children, Families & Seniors and Sen. McKay)

Establishes licensing and training requirements for persons wanting to practice juvenile sexual offender therapy after October 1, 2000. Requires the Departments of Children and Families and Juvenile Justice to notify school superintendents of any child who has a known history of sexual behavior with another child, is an alleged juvenile sex offender, or is found to have violated certain sex offenses. Provides for the creation of sexual abuse intervention networks and the awarding of grants to assist in identifying, investigating, prosecuting, treating, and preventing juvenile sexual abuse.

The effective date of this bill is upon becoming law.

CS/HB 3007 -- Juvenile Substance Abuse Testing

by Juvenile Justice, Rep. Fasano and others (SB 0708 by Sen. Grant)

Creates provisions to allow youth placed on community control or in aftercare to be subject to random substance abuse testing. The judge may order such requirements at the disposition hearing following a recommendation by the Department of Juvenile Justice or upon the filing of a petition alleging a violation of community control or aftercare.

The effective date of this bill is October 1, of the year enacted and shall apply to offenses committed on or after that date.

HB 3977 -- Orlando Regional Juvenile Detention Center

by Rep. Sublette (Passed in HB 4315 by Juvenile Justice, Rep. Bainter and others)

Prohibits the expansion of the Orlando Regional Detention Center by any state agency.

The effective date of this bill is upon becoming a law.

HB 4153 -- Juvenile Offenders/Boot Camps

by Rep. Flanagan, Rep. Turnbull and others (CS/SB 1486 by Criminal Justice, Sen. Williams and others)

Specifies funding sources for implementing and operating boot camps and places sheriff operated boot camps under their authority as determined by a contract with the Department of Juvenile Justice (DJJ). Requires placement of youth eligible for boot camp in the camp in or nearest to the judicial circuit in which the child was adjudicated unless the placement is inappropriate. DJJ will inspect all boot camps, including state-operated camps, but will no longer charge monitoring fees to locally run camps. Provides corrective action for state-operated boot camps failing to pass quarterly inspections. DJJ can no longer institute injunctive proceedings against locally operated camps failing to meet specified minimum standards.

The effective date of this bill is July 1, 1998.

CS/HB 4257 -- Juvenile Justice

by Juvenile Justice, Rep. Bainter and others (Passed as CS/CS/SB 2288 by Children, Families & Seniors, Criminal Justice and Sen. Gutman)

Directs the Juvenile Justice Advisory Board (JJAB) to annually operate and update a

comprehensive system to measure and report program outcomes and effectiveness for programs operated by the Department of Juvenile Justice (DJJ) or a provider contracted by DJJ. Directs the JJAB, the Division of Economic and Demographic Research (EDR) and contract service providers to develop a cost-effectiveness model to be used to compare program costs to client outcomes and program outputs. Requires the DJJ to collaborate with the JJAB, EDR and contract service providers to refine the cost-effectiveness model.

The effective date of this bill is upon becoming law.

CS/HB 4295 -- Juvenile Justice

by Governmental Operations, Juvenile Justice, Rep. Bainter and others (Passed as CS/CS/SB 2288 by Children, Families & Seniors, Criminal Justice and Sen. Gutman)

Allows counties to assess a \$3 court fee for teen court programs. Specifies conditions under which the Department of Juvenile Justice (DJJ) or any other state or local criminal justice agency may provide juvenile records to contracted programs. Redefines and specifies conditions for escaping from a secure detention or residential commitment facility. Replaces references to intake counselor and case manager with juvenile probation officer. Authorizes DJJ to use Juvenile Assessment Centers (JACs) to conduct pre-disposition assessments and evaluations. Clarifies the definition and operation of JACs. Specifies that only youth meeting secure detention criteria will be placed in such a facility. States provisions relating to a juvenile's competency in delinquency cases including proper notifications of filings and the appropriate course of action for competency cases. Allows DJJ to utilize juvenile assignment centers to conduct pre and post disposition assessments and evaluations. Requires DJJ to use such centers to conduct pre-disposition assessments by July 1, 1999. The expiration date for Juvenile Assignment Centers is extended to July 1, 2000.

The effective date of this bill is upon becoming law.

HB 4315 -- Juvenile Justice Education Programs

by Juvenile Justice, Rep. Bainter and others (CS/CS/SB 2198 by Government Reform & Oversight, Criminal Justice and Sen. Bankhead)

Requires the Juvenile Justice Advisory Board to conduct a study of education services in the juvenile justice system in terms of assessment, curriculum, staffing, delivery, and resources. The Board will assess the current funding method for education services and if necessary develop alternative funding methods for ensuring adequate and effective delivery of education services for juvenile offenders. Requires the Department of Education to identify literacy programs for juvenile offenders and, contingent upon funding, implement literacy programs in residential commitment programs.

The effective date of this bill is upon becoming law.

VI. COMMITTEE ON LAW ENFORCEMENT & PUBLIC SAFETY:

HB 0909 -- Concealed Weapons/Nonresidents

by Rep. Crady and others (CS/SB 0366 by Criminal Justice, Sen. Williams and others)

Allows a U.S. citizen, who is not a resident of Florida, to carry a concealed weapon in this state provided the person is at least 21 years of age, and has a valid concealed weapons license in his or her state of residence.

- Provides that a valid concealed weapons license from a previous state of residence remains in effect for 90 days when the holder of a license establishes legal residence in Florida.

The effective date of this bill is July 1, of the year in which enacted.

CS/CS/HB 1137 -- Alcohol Impairment Testing (Chapter No. 98-27, L.O.F.)

by Health Care Standards & Regulatory Reform, Law Enforcement & Public Safety, Rep. Betancourt and others (CS/SB 0508 by Criminal Justice and Sen. Horne)

Allows a medical care provider who is treating someone injured in a motor vehicle crash to notify law enforcement if that person's blood alcohol level (BAL) is .08 percent or higher.

- Provides that notification must be given within a reasonable time, and used exclusively for the purpose of a law enforcement officer requesting the withdrawal of a blood sample.
- Provides that reporting, or a failure to report, a person's BAL is not a violation of any moral or ethical duty on the part of the health care provider and prohibits any action being brought as a result of such a report.

The effective date of this bill is July 1, of the year in which enacted.

CS/HB 1151 -- Florida Department of Law Enforcement

by Law Enforcement & Public Safety, Rep. Futch and others (CS/SB 1378 by Criminal Justice and Sen. Burt)

Amends various sections of the Florida Statutes that address criminal and juvenile justice information system issues at the request of the Criminal and Juvenile Justice Information Systems Council.

- Requires FDLE to develop and maintain an information system that supports the administration of the state's criminal and juvenile justice system.
- Requires that criminal defendants make a "good cause" showing in court prior to any order that FDLE perform analyses, and that such lab costs be assessed against the defendant.
- Provides that crime scene and laboratory analysts, and forensic technologists who have suffered significant exposure, may require that a person be screened for a sexually transmissible disease.
- Requires that blood specimens for DNA analysis be obtained from persons convicted of specified offenses where specimens are not regularly obtained.

- Authorizes the department to obtain copyrights on its work product.

The effective date of this bill is July 1, of the year in which enacted.

CS/HB 1329 -- Medical Examiners

by Law Enforcement & Public Safety, Rep. Roberts-Burke and others (CS/SB 0562 by Criminal Justice, Sen. Kirkpatrick and others)

Provides that a medical examiner may not retain or furnish any part of a deceased without notification and approval of the next of kin, unless used in conjunction with the determination of identification or the cause of death of the decedent.

- Provides that a medical examiner may be suspended, reprimanded, or placed on probation for either a violation of this act, or negligent performance of his/her duties.
- Provides that a medical examiner may be temporarily suspended if unable to carry out his/her duties by reason of the use of alcohol, drugs, narcotics, or any other type of material.

The effective date of this bill is July 1, of the year in which enacted.

CS/CS/CS/HB 3075 -- Police and Fire Pension Plans

by Finance & Taxation, Governmental Operations, Law Enforcement & Public Safety, Rep. Pruitt and others (CS/SB 0270 by Community Affairs, Sen. Childers and others)

Revises Chapters 175 and 185, F.S. (relating to fire and police pension plans) to apply minimum benefits and standards to all plans funded under the chapters.

- Allows members to retire after reaching 52 years of age, and contributing 25 years of service.
- Modifies provisions relating to funding, contributions, and other fiscal matters to lower the minimum employee contribution to .5 percent, and defines the term "extra benefits".
- Establishes a 75% joint-and-survivor payment option, clarifies beneficiary provisions, and allows disabled retirees to elect regular benefit payment options.

The bill provides an effective date of October 1, of the year in which enacted.

CS/HB 3161 -- Law Enforcement and Correction Officers

by Governmental Operations, Rep. Mackenzie and others (SB 2012 by Sen. Bronson)

Provides for an audio or written recording of interrogations of law enforcement or correctional officers under investigation by the employing agency.

- Authorizes law enforcement officers, correctional officers, or correctional probation officers, who have resigned due to their appointment or election to office, to associate with a law enforcement agency for the purpose of maintaining their law enforcement certification without violating the constitutional prohibition against dual office-holding.

This effective date of this bill is upon becoming law.

CS/HB 3255 -- Court Costs/Crime Stoppers

by Law Enforcement & Public Safety, Rep. Sindler and others (CS/CS/SB 0502 by Judiciary, Criminal Justice, Sen. Gutman and others)

Creates a new \$20 surcharge on any criminal fine imposed which will be used to support Crime Stoppers and their crime fighting programs.

- The bill also provides for a \$2 court cost for each noncriminal traffic infraction which will be used to fund local law enforcement agency training.

The effective date of this bill is July 1, of the year in which enacted.

**CS/CS/HB 3265 -- Boating Safety and Emergency Responses
by General Government Appropriations, Law Enforcement & Public Safety, Rep. Ziebarth and others (CS/CS/SB 1794 by Transportation, Natural Resources, Sen. Burt and others)**

Provides for a \$500 civil penalty for anyone who refuses to submit to a blood test, breath test, or urine test when arrested for boating while intoxicated.

- Provides that, effective October 1, 1988, every person convicted of two noncriminal infractions of these provisions must attend a boating safety course.
- Provides that it is unlawful for any person under the age of 21 who has a breath-alcohol level of 0.02 or higher to operate, or be in actual physical control of, a vessel.
- Amends the definitions of “authorized emergency vehicles” and “operate” as used in the boater safety statutes.

The effective date of this bill is upon becoming law.

**HB 3359 -- Protective Services For Certain Victims and Witnesses
by Rep. Stafford (Passed as SB 0526 by Sen. Campbell)**

Extends protective services to those victims and witnesses who are at risk of harm because they cooperate in an investigation or prosecution of a serious felony offense, by adding “criminal attempt”, “criminal solicitation”, and “criminal conspiracy” to the definition of enumerated serious offenses.

- Provides that, if the protective service needed involves relocation, the Florida Department of Law Enforcement shall be notified to coordinate the relocation.
- Provides that the lead agency providing the service may seek reimbursement for expenses from the Victim and Witness Protection Review committee.

The effective date of this bill is upon becoming law.

**CS/HB 3511 -- Drivers License Revocations
by Law Enforcement & Public Safety, Rep. Constantine and others (Partially incorporated into HB 3275 by Rep. Arnall and others)**

Provides that a person committing the crime of murder resulting from the operation of a motor vehicle shall have their license permanently revoked, and that no license or driving privilege may be granted to such person.

- HB 3275 also includes DUI manslaughter, where the conviction represents a subsequent conviction, and four or more DUI convictions as offenses which require permanent driver license revocation. HB 3275 provides circumstances in which an individual may petition the department for reinstatement.
- Provides that, in the case of incarceration, the defendant's release date shall be

the date for determining when suspension or revocation commences, and when the defendant is eligible for reinstatement.

- Provides that notification of the defendant's release date be sent to the Department of Highway Safety and Motor Vehicles by the correctional facility.
- Provides that any person who drives a motor vehicle while their license is permanently revoked commits a felony of the third degree.
- HB 3275 also provides that the element of knowledge is satisfied when a judgement or order appears in the department's records unless the suspension occurs as a result of a failure to pay a fine, or for a financial responsibility violation.

The effective date of HB 3275 is July 1, of the year in which enacted.

**CS/HB 3571 -- Department of Law Enforcement
by Governmental Operations, Law Enforcement & Public Safety and Rep. Futch
(Passed as CS/SB 0486 by Criminal Justice and Sen. Silver)**

Reorganizes the Department of Law Enforcement from five divisions into three programs to conform with the budget entities that have been implemented for performance-based budgeting.

- The three new programs (Criminal Justice Investigations and Forensic Science, Criminal Justice Professionalism, and Criminal Justice Information) would be managed by persons appointed by the executive director.
- Provides discretionary authority to the executive director to establish a "command, operational, and administrative services structure" in order to support the department in operating programs and delivering services.

- Provides that the department be required to develop and maintain an information system that administers the state's criminal and juvenile justice system.

The effective date of this bill is July 1, 1998.

HB 3659 -- Crime Stoppers Trust Fund
by Rep. Sindler (SB 0978 by Sen. Gutman)

Creates the Crime Stoppers Trust Fund, to be administered by the Department of Legal Affairs.

- Provides that the Crime Stoppers Trust Fund shall terminate on July 1, 2002, unless terminated sooner.

The effective date of this bill is July 1, 1998.

HB 3737 -- Sexual Predators/Notifying Public
by Rep. Hill (SB 1776 by Sen. Holzendorf)

Revises the notification requirements of the Florida Sexual Predators Act by requiring that within 48 hours of receiving notification of the presence of a sexual predator, the sheriff or chief of police must notify each public or private day care center, elementary school, middle school, and high school of the sexual predators presence in the community.

The effective date of this bill is July 1, 1998.

HB 4059 -- Fleeing Law Enforcement Officer
by Law Enforcement & Public Safety, Rep Futch and others (CS/SB 0794 by Criminal Justice and Sen. Dudley)

Provides that it is a third-degree felony for the operator of a vehicle to either fail to stop the vehicle when so directed by a law enforcement officer, or to attempt to elude such officer.

- Provides that it is a second-degree felony to drive at high-speed, or demonstrate a wanton disregard for the safety of persons or property, during the course of willfully fleeing or attempting to elude a law enforcement officer.
- Increases the penalty for aggravated fleeing and eluding a law enforcement officer from a third-degree felony to a second-degree felony.

The effective date of this bill is October 1, 1998.

HB 4219 -- Mutual Aid Agreements
by Law Enforcement & Public Safety, Rep. Futch and others (CS/SB 1932 by Criminal Justice and Sen. Dudley)

Provides that a state university that employs or appoints university police officers may enter into mutual aid agreements between one or more law enforcement agencies.

- Provides that, when the university lends assistance pursuant to a mutual aid agreement, all powers, privileges, and immunities apply to the agency as long as the requested services are coordinated by the affected local law enforcement executive in charge.

The effective date of this bill is July 1, of the year in which enacted.

HB 4389 -- Emergency Medical Services

by Rep. Flanagan and others (Passed as SB 0540 by Sen. Lee)

Expands the definition of “medical care provider” for the purpose of enhancing penalties for assaults and batteries committed on such persons.

The effective date of this bill is October 1, 1998.

HB 4827 -- Sexual Predators Act

by Law Enforcement & Public Safety and Rep. Futch (Passed as CS/SB 1992 by Criminal Justice and Sen. Burt)

Amends Florida’s laws relating to registration of sexual predators and sexual offenders with federal standards to preserve the federal Byrne formula funding the state receives.

- Provides for the sharing of criminal history information between departments for the purpose of child protective investigations.
- Prohibits sex offenders from being placed on administrative probation.
- Provides that certain control conditions relating to sex offenders are standard conditions that do not require oral pronouncement at sentencing.

The effective date of this bill is October 1, 1998.

VII. COMMITTEE ON REAL PROPERTY & PROBATE:

HB 1403 -- Construction and Molders Liens

by Rep. Tobin (CS/SB 0114 by Judiciary and Sen. Latvala)

The bill provides definitions of the terms:

- Customer, mold, molder, records, or molder records, and unclaimed mold.
- The bill provides that a molder may acquire title to an unclaimed mold, i.e., a mold which has not been used to make a product for at least 3 years. To exercise this right, the molder must send written notice of the intent to acquire title to the customer and to any holder of a security interest in the mold which was perfected in this state. Notice provisions are described in the bill.
- A molder acquires title to an unclaimed mold under any of the following circumstances:
 1. For an unclaimed mold for which a molder provides notice to a customer by certified mail and a signed receipt is received, if the customer or anyone claiming a legal interest in the mold does not contact the molder and either remove the mold from the molder's premises or make contractual arrangements with the molder for storage of the mold within 90 days after the date notice was received.

2. For an unclaimed mold for which notice by publication is made, if the customer or anyone claiming a legal interest in the mold does not contact the molder and either remove the mold from the molder's premises or make contractual arrangements with the molder for storage of the mold within 90 days after the date of the second publication.
- The molder and the customer can bind themselves to provisions different than the statutes by written contract.
 - The bill provides that these title transfer provisions do not affect the rights of a holder of a perfected security interest in a mold or any right of the customer under federal patent or copyright law or federal law relating to unfair competition. A molder who acquires title to a mold by this statute passes good title when transferring the mold.
 - The bill creates a lien for unpaid amounts due the molder for work and materials. The lien is on a mold in the possession of the molder which belongs to the customer owing the unpaid debt. The molder may retain the mold until the debts are paid. Before enforcing the lien, the molder must comply with specified notice requirements.
 - If the molder is not paid the amount due as stated in the notice within 60 days after the notice has been delivered, the molder may sell the mold at a public auction if all other requirements are satisfied.
 - The proceeds of the sale must be paid first to any holder of a security interest perfected in this state. Any excess must be paid to the molder holding the lien created by this section. Any remaining amount is to be paid to the customer, if the customer's address is known, or to the state treasurer for deposit in the General Revenue Fund if the customer's address is unknown to the molder at the time of the sale.
 - If a sale would be in violation of any right of a customer under federal patent or copyright law, it cannot be conducted.
 - Section 1 of the bill, the provisions on acquisition of title to unclaimed molds, applies only to contracts entered into before January 1, 1999, and repeals on January 1, 2001.

The effective date of this bill is July 1, 1998.

CS/CS/HB 1565 -- Timeshare Plans

by Real Property & Probate and Rep. Edwards (Passed as CS/CS/SB 0626 by Regulated Industries, Judiciary and Sen. Silver)

Revises chapter 721, Florida Statutes, relating to timeshare plans. The bill creates the Timeshare Lien Foreclosure Act, which provides for consolidation of timeshare foreclosure proceedings under certain conditions, for service of process by service on a registered agent or by mail, and for appointment of a registered agent to accept such service. The bill also creates statutes on commissioners of deeds to allow execution of timeshare instruments outside the United States. The bill also:

- Authorizes rulemaking authority to create exemptions to ch. 721, F.S.; increases the number of days that the Division of Florida Land Sales, Condominiums, and Mobile Homes has to respond to a proposed amendment to an approved multi-site timeshare plan that adds a new component site;
- Eliminates the requirement that a developer file an irrevocable letter of credit, surety bond, or other assurance to guarantee the delivery of incidental benefits to the purchaser, and authorizes disclosure of such benefits;
- Revises language regarding reservation agreements;
- Defines the term "regulated short-term product"; and provides for disclosure and cancellation provisions; authorizes the advertisement of such agreements subject to the division's approval;

- Allows developers greater flexibility in the allocation of common expenses; amends provisions regarding the audit of financial statements, and requires that the certified public accountants preparing these audits be licensed in the State of Florida.

The effective date of this bill is upon becoming a law.

CS/HB 1903 -- Public Records

by Real Property & Probate, Governmental Operations and Rep. Crow (SB 0806 by Sen. Dudley)

This committee substitute creates a public records exemption for information relative to an investigation by the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business & Professional Regulation conducted pursuant to Chapter 498, Florida Statutes.

- This exemption includes consumer complaints. Such information is confidential and exempt until 10 days after a notice to show cause has been filed by the division, or, in the case where no notice to show cause is filed, the investigation is completed or ceases to be active; however, certain information remains confidential and exempt, for example, information that would jeopardize the integrity of another active investigation and trade secret information.
- The stated purpose of this bill is to preserve the integrity of the investigation process. Furthermore, untimely disclosure of certain identifying and location information relating to purchasers or account holders or complainants could jeopardize the integrity of investigations.
- The exemption created by this bill is made subject to the Open Government Sunset Review Act of 1995 and will repeal on October 2, 2003, unless reenacted by the Legislature.

The effective date of the bill is October 1 of the year in which it is enacted (1998).

HJR 3151 -- Additional Homestead Tax Exemption

by Rep. Villalobos (SB 0246 by Sen. Diaz-Balart)

Proposed constitutional amendment to be voted on at the general election in November 1998. If approved by the voters, the amendment will provide authorization to the Legislature to permit counties or municipalities to grant an additional homestead tax exemption of up to \$25,000 to resident homeowners who are at least 65 years of age and whose household income does not exceed \$20,000.

- The amendment is not self-executing. The amendment, if implemented, provides that the general law implementing the legislation must allow the counties or municipalities to adopt the new exemption by ordinance, and must provide for the periodic adjustment of the income limitation for changes in the cost of living.

The effective date of this amendment is January 1, 1999, if approved by the electorate.

CS/CS/HB 3193 -- Homeowners' Associations

by Community Affairs, Real Property & Probate and Rep. Starks (CS/SB 0544 by Judiciary and Sen. Dyer)

Provides the following changes to the statutes governing mandatory homeowners' associations:

- Provides that reserve and operating funds of the association are to be held separately by the developer and prohibits commingling of association funds with the developer's funds or with those of another association;
- Provides for delivery of specified documents by the developer to the association members at the time the members are entitled to assume control of the association;
- Prohibits certain clauses in homeowners' association governing documents;
- Requires notice that certain documents are available in the record office in the county where the property is located; and
- Requires that a contract for sale must refer to and include the disclosure summary and must also include a statement that the potential buyer should not execute the contract until they have received and read the disclosure summary.

The effective date of this bill is October 1, of the year in which it is enacted (1998).

CS/HB 3223 -- Land Platting

by Real Property & Probate and Rep. Dockery (CS/SB 0406 by Regulated Industries and Sen. Clary)

- CS/HB 3223 revises existing definitions and adds new definitions in ch. 177, F.S., relating to land boundary regulation and platting of subdivided lands.
- The bill requires the platting of lands by "professional surveyors and mappers."
- The bill sets minimum standards for platting throughout the state. Different types of monuments are identified and minimum size requirements for the monuments are specified in law.
- All lot corners of the plat must be monumented prior to the recording or prior to release of the improvement bond in cases where the plat is recorded and the planned improvements are bonded.
- The bill requires that all plats be reviewed for conformity to ch. 177, F.S., by a professional surveyor and mapper either employed by or under contract with the local governing body. Evidence of the review must be placed on the plat. The cost of the review will be borne by the legal entity offering the plat for recordation.

The effective date of this bill is July 1, 1998.

CS/HB 3319 -- Liens

by Governmental Operations & Rep. Merchant (Passed as CS/SB 1466 by Judiciary & Sen. Dudley)

With regard to construction of public buildings:

- Provides an expedited procedure for the enforcement of a claim against a payment bond, and sets forth the form for “Notice of Contest Of Claim Against Payment Bond”.
- Provides for recovery of retainage.
- Provides that a contractor may serve a written demand on any claimant for a written statement of account, and sets forth requirements relating thereto.
- Provides that if the public authority requires a performance and payment bond, suits at law and in equity may be brought and maintained by and against the public authority on any contract claim arising from breach of an express or implied provision of a written agreement or at the written directive of the public authority.

With regard to construction in the private sector:

- Allows a solid waste company to use a construction lien to recover losses from a defaulting builder.
- Provides that a contractor's affidavit need only include lienors who have timely served a notice to owner, and that negligent inclusion/omission of information which is not prejudicial to the owner does not constitute a default.
- Establishes an additional manner of serving the notice to owner.
- Provides an expedited procedure for the enforcement of a claim against a payment bond, and sets forth the form for “Notice of Contest Of Claim Against Payment Bond”.
- Sets forth the forms for Waiver of Right to Claim Against the Payment Bond, for progress payments and final payment.
- Revises the amount of a payment bond from \$500 to apply to court costs to \$1,000 or 25% of the amount demanded in the claim of lien, whichever is greater; and, authorizes the court, under certain conditions, to increase the amount of the cash deposit or lien transfer bond.

The effective date of this bill is July 1, 1998.

**CS/CS/HB 3321 -- Condominiums and Cooperatives
by Governmental Rules & Regulations, Real Property & Probate and Rep. Crow
(CS/SB 1624 by Regulated Industries and Sen. Dudley)**

The bill provides the Division of Florida Land Sales, Condominiums and Mobile Homes with rulemaking authority to implement and ensure compliance with chapter 719, Florida Statutes, relating to cooperatives as follows:

- The developer's “obligations” to residents during conversion including requirements to file and notice intended cooperative conversions, provide rental agreement extensions, right of first refusal, disclosure and post-disclosure protections regarding the conversion.
- Prohibits a developer from closing on a contract for sale or a contract for lease for a period of more than five years until the developer complies with filing requirements.
- Allows a buyer to close during the fifteen days following execution of a purchase agreement if the buyer agrees to close during that time and the developer retains proof of such agreement for five years after the closing date.

Substantive changes to condominium and cooperative law include:

- If the initial condominium declaration was recorded prior to January 1, 1977, the association may operate more than one condominium as if it were a single condominium and may provide for a consolidated financial operation by amending its declaration or its bylaws if the amendment is approved by at least two-thirds of the voting interests.
- If a developer-controlled association has maintained all required insurance coverage, in the event of a natural disaster or Act of God, the developer and owners shall be responsible for a pro-rata share of expenses not covered by the proceeds of insurance.
- A developer-controlled association shall be required to “exercise due diligence” to obtain and maintain adequate insurance and the failure to obtain and maintain adequate insurance may be construed as a breach of fiduciary responsibility.
- An association must maintain year-end financial information on the condominium property for owners and prospective purchasers and the financial information must be referenced in contracts and included with prospectus or offering circulars.
- A vacancy on the board before the expiration of a term may be filled by the majority vote of the remaining directors, even if less than a quorum, or an election may be held conforming to the statutory election process, unless otherwise provided in the bylaws.
- If the declaration does not provide for cost of a master antenna system or cable television service, the board of administration may enter into a contract and the cost of the service will be a common expense to be allocated on a per-unit basis.
- A board member or committee member not present at a meeting may submit his or her agreement or disagreement with any action taken, but it may not be used for a quorum.
- A board member or committee member may vote by telephone for purposes of obtaining a quorum, if a speaker phone is used in order to hear the member’s vote.

The effective date of this bill is upon becoming a law.

HB 3547 -- Homestead Tax Exemptions/Social Security Numbers
by Rep. Littlefield (Passed as SB 0830 by Sen. Cowin)

Deletes a requirement that an applicant for homestead tax exemption must provide his or her social security number as a condition of receiving the exemption.

The bill also deletes a provision which requires county property appraisers to submit social security numbers from homestead exemption applications, for the 2000 tax year and thereafter, to the Department of Revenue.

The effective date of this bill is July 1, 1998.

HB 3763 -- Cemetery Preservation & Consumer Act
by Rep. Crist (CS/SB 1572 by Banking & Insurance and Sen. Harris)

HB 3763 is entitled the “Cemetery Preservation and Consumer Protection Act”, and amends several sections, and creates new sections, in Chapter 497, Florida Statutes, dealing with funeral and cemetery services. The bill provides a definition of “care and maintenance” as it relates to cemeteries, requires all licensed cemeteries to perform care and maintenance, and authorizes the Board of Funeral and Cemetery Services (“Board”) to make rules spelling out the minimum care and maintenance functions to be performed.

The bill provides:

- If a licensed cemetery wishes to sell lands within the cemetery, the licensee will have to give public notice and possibly undergo a public hearing to seek approval for the sale, if the land in question has ever been used for interments of human remains. If the land in question has never been used for interments, then no public notice or hearing will be required before the Department of Banking and Finance approves or denies the sale.
- New mausoleums or columbaria (buildings used as repositories for cremated remains) must be built in accordance with construction standards to be developed by the Board of Funeral and Cemetery Services. These standards will be promulgated as part of the state's minimum building codes by the Board of Building Codes and Standards. Any significant alterations or renovations of existing mausoleums or columbaria must also comply with the new standards. The Board of Funeral and Cemetery Services must also make rules assuring that all crypts and niches are securely and permanently sealed after human remains have been placed therein. Requirements for preconstruction trust funds for new mausoleums are extended to include columbaria.
- The bill enhances criminal penalties for cemetery vandalism from misdemeanors to felonies. Grave robbing is upgraded to a second degree felony. Civil enforcement is improved by specifying the Attorney General as a potential plaintiff and by adding a section allowing the use of nuisance abatement procedures for violations causing physical problems at cemeteries. Greater flexibility is given counties in carrying out their duties to bury or cremate unclaimed bodies.
- The bill creates a task force within the Department to study the problems of the estimated 2,000 abandoned cemeteries in Florida, and to make recommendations to the Legislature.

Provides an effective date of July 1, 1998, however, certain provisions of the act will not take effect until the Board promulgates specified rules.

HB 3863 -- Coastal Zone Protection Act
by Rep. Argenziano (SB 1404 by Sen. Brown-Waite)

The Coastal Zone Protection Act of 1985 [the Act] provides for the management of the most sensitive portions of the state's coastal area through imposition of strict construction standards to minimize damage to the natural environment, private property, and life. The Act imposes minimum construction standards for Florida's coastal building zone.

The National Flood Insurance Program [NFIP] was established by the United States Congress in 1968 through passage of the National Flood Insurance Act. Participation in the NFIP is based upon an agreement between local governments and the federal government. If a community implements and enforces measures to reduce future flood risks to new construction in special flood hazard areas, the federal government will make flood insurance available within the community to protect against flood losses.

- The Act was amended by the 1997 Legislature to specifically exclude the cost of nonstructural interior finishings and roof coverings from cumulative substantial improvement determinations. According to the Department of Community Affairs, they have received daily calls for clarification of the provision regarding "nonstructural interior finishings."
- This bill modifies the definition of the term "substantial improvement" to specify that "nonstructural interior finishings" include, but are not limited to:
 - finish flooring and floor coverings,

- base molding,
 - nonstructural substrates,
 - drywall, plaster, and paneling,
 - wall covering, tapestries and window treatments,
 - decorative masonry and paint,
 - interior doors,
 - tile,
 - cabinets and moldings,
 - millwork,
 - decorative metal work,
 - vanities,
 - electrical receptacles, electrical switches, electrical fixtures,
 - intercoms, communications and sound systems,
 - security systems,
 - HVAC grills and decorative trim,
 - freestanding metal fireplaces,
 - appliances,
 - water closets, tubs and shower enclosures, lavatories, and
 - water heaters.
- By specifying these items to be “nonstructural interior finishings,” they will be excluded from the costs required to be included in the cumulative cost determination for rebuilding measures.

The effective date of this bill is upon becoming a law.

HB 4449 -- Viatical Settlement/Provider Trusts

by Rep. Barreiro (Passed as CS/SB 2004 by Banking & Insurance and Sen. Burt)

A “viatical settlement contract” is an agreement between a life insurance policyholder (“viator”) who has a terminal illness and an investor or group of investors (“provider”) under which the provider makes an up-front payment to the viator. In exchange for this payment, the provider assumes the obligation of paying premiums on the policy and becomes entitled to the proceeds of the policy upon the death of the viator. The concept of viatical settlements arose in response to AIDS patients’ need for immediate cash.

The bill provides that:

- A viatical settlement provider can pool funds from several investors, each of whom would be entitled to a proportionate share of the life insurance proceeds.
- A licensed viatical settlement provider would be able to establish a trust for the benefit of viatical investors. The effect of establishing such a trust would be to shield the viatical investment from liabilities of the provider that are not related to viatical settlement contracts.
- A trust which meets the definition of a related provider trust is excluded from the definition of a viatical settlement provider.
- There will be no additional license fee or deposit requirements under this act for a viatical settlement provider.
- Misrepresentation of the nature of a return or the duration of time to obtain the return of a viatical settlement investment is prohibited.
- A disclosure must be provided to investors, stating that the return available is directly tied to the life span and projected date of death of one or more viators; if a return is represented, the disclosure must state the projected life span or date of death of the viator(s) whose life or lives is tied to the return.

The effective date of this bill is July 1, 1998.

**CS/SB 1054 -- Condominiums/Rulemaking/DBPR (RAB)
by Regulated Industries and Sen. Dudley**

This bill provides the duties of the Division of Florida Land Sales, Condominiums and Mobile Homes of the Department of Business and Professional Regulation and provides additional specific grants of rulemaking authority allowing the department to fully adopt rules necessary to implement, enforce and interpret provisions of chapter 718 and part VI of chapter 621, Florida Statutes. The bill requires:

- The information that must be disclosed to a buyer and the components for disclosure prior to the sale of a condominium.
- That a developer provide notice to a tenant of an intended conversion and prescribes the specific manner by which such notices must be mailed.
- In condominium conversions, the filing and noticing of intended conversions, rental agreement extensions, the period of right of first refusal, and the issuance and disclosure of post purchase protections issued or established by the developer.
- That the developer, upon recording the declaration of condominium or amendments adding phases to a condominium, shall file with the division such recording information on a specific form, within 30 days.
- That the board of directors of a condominium association must notify the division prior to taking any action to terminate or merge the condominium or the association.
- After recording a termination notice, the association shall provide the division with a copy of the recorded notice within 30 days.
- That a developer cannot close on any contract for sale or contract for a lease period of more than 5 years until the developer has been notified by the division that all documents submitted by the developer are in compliance.
- That a developer of a condominium conversion either establish reserve accounts for capital expenditures and deferred maintenance, offer warranties, or post a surety bond.
- The bill permits a board or committee member of a condominium to submit in writing his or her agreement or disagreement of any action taken at a meeting that the member did not attend. The written vote, however, may not be used to create a quorum. Board and committee members are permitted to attend a board or committee meeting by telephone; however, a telephone speaker must be used in order that the member can be heard by any unit owners present at the meeting.
- The bill permits a buyer to terminate a contract by written notice within 15 days after receiving all of the documents in this section. A developer is prohibited from closing for 15 days following the signed execution of the contract for sale unless the buyer is informed of the 15 day period to terminate and agrees in writing to close prior to the expiration of the 15 days.
- The bill provides that a tenant shall have the right of first refusal to purchase the unit in which the tenant resides and provides specific time frames for when the developer must make an offer and when the tenant must respond.

The effective date of this bill is upon becoming law.